

02-0819 J.F. v. Albertson's Issued: 4/29/05

J. F. requests review of Administrative Law Judge Eblen's denial of her claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

On July 29, 2002, Ms. F. filed an application with the Commission to compel Albertson's to pay workers' compensation benefits for low-back injuries allegedly caused by an accident at Albertson's several years earlier, on February 15, 1996. Albertson's responded to Ms. F.'s claim by admitting she had injured her **mid-back** in the 1996 work accident, but denying that her current **low-back** problems were caused by that accident.

Judge Eblen held an evidentiary hearing in this matter on May 6, 2003. Because the parties submitted conflicting evidence as to whether the 1996 accident caused Ms. F.'s current low-back problems, Judge Eblen appointed a medical panel to consider that question. The panel submitted its report on March 4, 2004, finding there appeared to be a causal connection between the accident and injury. Albertson's then objected to the panel's report as lacking medical foundation and providing insufficient explanation.

In a decision issued September 7, 2004, Judge Eblen concurred with Albertson's objections and, therefore, disregarded the medical panel's report. Judge Eblen instead accepted the opinion of Dr. Knoebel, Albertson's medical expert, that the 1996 work accident did not cause Ms. F.'s low back problems. On that basis, Judge Eblen denied Ms. F.'s claim.

Ms. F. now requests review of Judge Eblen's decision. Specifically, Ms. F. contends the preponderance of medical evidence establishes that her low back problems are caused by the 1996 work accident. Alternatively, Ms. F. asks that her claim be remanded for further proceedings to obtain a more thorough explanation from the medical panel of the basis for its conclusions.

FINDINGS OF FACT

The following facts are relevant to the issues Ms. F. has raised in her request for review of Judge Eblen's decision.

On February 15, 1996, while working as a cashier for Albertson's, Ms. F. lifted a 40- pound bag of dog food in order to scan its bar code. As she did so, she felt pain in her back. Three weeks later, she sought medical attention for pain in her low back and right leg. Over the next several months, she underwent several diagnostic evaluations. On May 15, 1996, she underwent discectomy at the T6-7 level of her spine.

After a period of recovery from this first back surgery, Ms. F. returned to work. She sought medical attention for her low back on April 1998. A year later, in March 1999, she again sought

medical attention for low back problems. She underwent diagnostic testing which indicated slightly increased arthritis in her low back and disc herniation at the L5-S1 level. She received conservative treatment and was able to return to work.

On December 31, 2000, Ms. F. was involved in a horse-riding accident that fractured two ribs and caused a compression fracture at the D6-7 level of her spine. Thereafter, she was able to continue working on a restricted-lifting basis.

On April 24, 2002, she again sought medical attention for increasing low back pain radiating into her legs. She was ultimately diagnosed with herniated discs at L3-4, L4-5 and L5-S1. On August 1, 2002, Ms. F. underwent surgery to fuse the L3-4 and L4-5 vertebrae.

Ms. F.'s surgeon expresses the opinion that Ms. F.'s low back problems at the L3-4 and L4-5 levels of her spine were caused by the original 1996 work accident at Albertson's. However, Albertson's medical consultants express the contrary view that Ms. F.'s low back problems were not caused by the work accident at Albertson's.

Judge Eblen appointed a medical panel to evaluate the nature and cause of Ms. F.'s low back problems. The panel's report describes in some detail Mrs. F.'s medical history and the panel's examination of her. The report then stated the panel's conclusion that there was a medical causal connection between Ms. F.'s 1996 work accident and her low back problems. The panel limited its explanation of this connection to the following statement: "It appears that considering the patient's age, there were things about the industrial event to justify including the L3-4 at L4-5 levels."

DISCUSSION AND CONCLUSIONS OF LAW

Section 34A-2-401 of the Utah Workers' Compensation Act requires employers to pay workers' compensation benefits to employees injured by accident "arising out of and in the course of" their employment. In other words, only work-related injuries are compensable under the Act, and injuries are not work-related unless the work is both the "legal" and the "medical" cause of injury. Allen v. Industrial Commission, 729 P.2d 15 (Utah 1986). It is the question of medical causation that is at issue in this case.

Workers' compensation proceedings often involve complex medical issues. For that reason, §34A-2-601 of the Act authorizes the Commission to appoint impartial medical panels to consider the medical aspects of such cases. The Commission's Rule 602-2-2 establishes the circumstances when the Commission will use its discretion to convene a medical panel. There is no dispute that the conditions of Rule 602-2-2 were satisfied in this case and that Judge Eblen properly appointed a medical panel to consider the medical aspects of Ms. F.'s claim. What is in question is the sufficiency of the medical panel's report.

The Commission's adjudicative system relies heavily on medical panel reports in determining whether an applicant should receive workers' compensation benefits. Panel reports are generally considered persuasive because the panelists have the benefit of the applicant's entire medical record, as well as the administrative law judge's findings of fact. Furthermore, the panel usually has the opportunity to personally examine the applicant and to consider other medical

opinions of the parties' own medical experts. But a medical panel's explanation of the reasoning behind its conclusion is an important contributor to the persuasive force of the panel's opinion.

In this case, the medical panel stated its opinion that Ms. F.'s work accident medically caused her low back problems, but did not provide a meaningful explanation of the reasoning leading to the conclusion. Because the reasoning process is dependent on the medical knowledge and medical experience of the panel members, it cannot be supplied by the administrative law judge or the Appeals Board, but must come from the panel itself. Furthermore, in light of the critical role played by medical panels in Utah's workers' compensation system, the Appeals Board is unwilling to simply disregard panel reports that lack explanation. The Appeals Board does not require that medical panels produce exhaustive statements of their rationale, but does require a cogent explanation sufficient to allow an understanding of the basis for the medical panels' determinations. For these reasons, the Appeals Board may find it necessary to remand cases to obtain an adequate explanation of the medical panel's conclusions.

The Appeals Board concludes that this case is one in which additional explanation is necessary from the medical panel. The Appeals Board sets aside Judge Eblen's decision and remands this matter to the Adjudication Division to obtain the medical panel's explanation of its conclusion that Ms. F.'s work accident caused her low back problems. The ALJ will then issue a new decision based on all the evidence of record, including the medical panel's opinion and explanation of that opinion. Any party dissatisfied with that decision may file and seek review.

ORDER

The Appeals Board grants Ms. F.'s motion for review, sets aside Judge Eblen's decision, and remands this case to the Adjudication Division for further proceedings consistent with this decision. It is so ordered.

Dated this 29th day of April, 2005.

Colleen S. Colton, Chair
Patricia S. Drawe
Joseph E. Hatch